

# SB3513



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3513

Introduced 2/10/2010, by Sen. Emil Jones, III

#### SYNOPSIS AS INTRODUCED:

105 ILCS 10/6

from Ch. 122, par. 50-6

705 ILCS 405/5-145

Amends the Illinois School Student Records Act. Provides that school student records or information contained in those records may be released to SHOCAP committee members who fall within the meaning of "state and local officials and authorities" for the purpose of identifying criminal trends and victim information to prevent outbreaks of violence by and against students. Amends the Juvenile Court Act of 1987. Provides that the SHOCAP committee shall adopt, by a majority of the members, criteria to identify criminal trends in order to prevent outbreaks of violence by or against students and criteria to determine when sharing of juvenile victim information would deter further acts of violence by or against juveniles. Effective immediately.

LRB096 18293 RLC 33668 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning juveniles.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois School Student Records Act is  
5 amended by changing Section 6 as follows:

6 (105 ILCS 10/6) (from Ch. 122, par. 50-6)

7 Sec. 6. (a) No school student records or information  
8 contained therein may be released, transferred, disclosed or  
9 otherwise disseminated, except as follows:

10 (1) To a parent or student or person specifically  
11 designated as a representative by a parent, as provided in  
12 paragraph (a) of Section 5;

13 (2) To an employee or official of the school or school  
14 district or State Board with current demonstrable  
15 educational or administrative interest in the student, in  
16 furtherance of such interest;

17 (3) To the official records custodian of another school  
18 within Illinois or an official with similar  
19 responsibilities of a school outside Illinois, in which the  
20 student has enrolled, or intends to enroll, upon the  
21 request of such official or student;

22 (4) To any person for the purpose of research,  
23 statistical reporting, or planning, provided that such

1 research, statistical reporting, or planning is  
2 permissible under and undertaken in accordance with the  
3 federal Family Educational Rights and Privacy Act (20  
4 U.S.C. 1232g);

5 (5) Pursuant to a court order, provided that the parent  
6 shall be given prompt written notice upon receipt of such  
7 order of the terms of the order, the nature and substance  
8 of the information proposed to be released in compliance  
9 with such order and an opportunity to inspect and copy the  
10 school student records and to challenge their contents  
11 pursuant to Section 7;

12 (6) To any person as specifically required by State or  
13 federal law;

14 (6.5) To juvenile authorities when necessary for the  
15 discharge of their official duties who request information  
16 prior to adjudication of the student and who certify in  
17 writing that the information will not be disclosed to any  
18 other party except as provided under law or order of court.

19 For purposes of this Section "juvenile authorities" means:

20 (i) a judge of the circuit court and members of the staff  
21 of the court designated by the judge; (ii) parties to the  
22 proceedings under the Juvenile Court Act of 1987 and their  
23 attorneys; (iii) probation officers and court appointed  
24 advocates for the juvenile authorized by the judge hearing  
25 the case; (iv) any individual, public or private agency  
26 having custody of the child pursuant to court order; (v)

1 any individual, public or private agency providing  
2 education, medical or mental health service to the child  
3 when the requested information is needed to determine the  
4 appropriate service or treatment for the minor; (vi) any  
5 potential placement provider when such release is  
6 authorized by the court for the limited purpose of  
7 determining the appropriateness of the potential  
8 placement; (vii) law enforcement officers and prosecutors;  
9 (viii) adult and juvenile prisoner review boards; (ix)  
10 authorized military personnel; (x) individuals authorized  
11 by court;

12 (7) Subject to regulations of the State Board, in  
13 connection with an emergency, to appropriate persons if the  
14 knowledge of such information is necessary to protect the  
15 health or safety of the student or other persons;

16 (8) To any person, with the prior specific dated  
17 written consent of the parent designating the person to  
18 whom the records may be released, provided that at the time  
19 any such consent is requested or obtained, the parent shall  
20 be advised in writing that he has the right to inspect and  
21 copy such records in accordance with Section 5, to  
22 challenge their contents in accordance with Section 7 and  
23 to limit any such consent to designated records or  
24 designated portions of the information contained therein;

25 (9) To a governmental agency, or social service agency  
26 contracted by a governmental agency, in furtherance of an

1 investigation of a student's school attendance pursuant to  
2 the compulsory student attendance laws of this State,  
3 provided that the records are released to the employee or  
4 agent designated by the agency;

5 (10) To those SHOCAP committee members who fall within  
6 the meaning of "state and local officials and authorities",  
7 as those terms are used within the meaning of the federal  
8 Family Educational Rights and Privacy Act, for the purposes  
9 of identifying serious habitual juvenile offenders and  
10 matching those offenders with community resources pursuant  
11 to Section 5-145 of the Juvenile Court Act of 1987, and  
12 identifying criminal trends and victim information to  
13 prevent outbreaks of violence by and against students, but  
14 only to the extent that the release, transfer, disclosure,  
15 or dissemination is consistent with the Family Educational  
16 Rights and Privacy Act; ~~or~~

17 (11) To the Department of Healthcare and Family  
18 Services in furtherance of the requirements of Section  
19 2-3.131, 3-14.29, 10-28, or 34-18.26 of the School Code or  
20 Section 10 of the School Breakfast and Lunch Program Act;  
21 or -

22 (12) To the State Board or another State government  
23 agency or between or among State government agencies in  
24 order to evaluate or audit federal and State programs or  
25 perform research and planning, but only to the extent that  
26 the release, transfer, disclosure, or dissemination is

1 consistent with the federal Family Educational Rights and  
2 Privacy Act (20 U.S.C. 1232g).

3 (b) No information may be released pursuant to  
4 subparagraphs (3) or (6) of paragraph (a) of this Section 6  
5 unless the parent receives prior written notice of the nature  
6 and substance of the information proposed to be released, and  
7 an opportunity to inspect and copy such records in accordance  
8 with Section 5 and to challenge their contents in accordance  
9 with Section 7. Provided, however, that such notice shall be  
10 sufficient if published in a local newspaper of general  
11 circulation or other publication directed generally to the  
12 parents involved where the proposed release of information is  
13 pursuant to subparagraph 6 of paragraph (a) in this Section 6  
14 and relates to more than 25 students.

15 (c) A record of any release of information pursuant to this  
16 Section must be made and kept as a part of the school student  
17 record and subject to the access granted by Section 5. Such  
18 record of release shall be maintained for the life of the  
19 school student records and shall be available only to the  
20 parent and the official records custodian. Each record of  
21 release shall also include:

22 (1) The nature and substance of the information  
23 released;

24 (2) The name and signature of the official records  
25 custodian releasing such information;

26 (3) The name of the person requesting such information,

1 the capacity in which such a request has been made, and the  
2 purpose of such request;

3 (4) The date of the release; and

4 (5) A copy of any consent to such release.

5 (d) Except for the student and his parents, no person to  
6 whom information is released pursuant to this Section and no  
7 person specifically designated as a representative by a parent  
8 may permit any other person to have access to such information  
9 without a prior consent of the parent obtained in accordance  
10 with the requirements of subparagraph (8) of paragraph (a) of  
11 this Section.

12 (e) Nothing contained in this Act shall prohibit the  
13 publication of student directories which list student names,  
14 addresses and other identifying information and similar  
15 publications which comply with regulations issued by the State  
16 Board.

17 (Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09;  
18 96-107, eff. 7-30-09; revised 11-3-09.)

19 Section 10. The Juvenile Court Act of 1987 is amended by  
20 changing Section 5-145 as follows:

21 (705 ILCS 405/5-145)

22 Sec. 5-145. Cooperation of agencies; Serious Habitual  
23 Offender Comprehensive Action Program.

24 (a) The Serious Habitual Offender Comprehensive Action

1 Program (SHOCAP) is a multi-disciplinary interagency case  
2 management and information sharing system that enables the  
3 juvenile justice system, schools, and social service agencies  
4 to make more informed decisions regarding a small number of  
5 juveniles who repeatedly commit serious delinquent acts.

6 (b) Each county in the State of Illinois, other than Cook  
7 County, may establish a multi-disciplinary agency (SHOCAP)  
8 committee. In Cook County, each subcircuit or group of  
9 subcircuits may establish a multi-disciplinary agency (SHOCAP)  
10 committee. The committee shall consist of representatives from  
11 the following agencies: local law enforcement, area school  
12 district, state's attorney's office, and court services  
13 (probation).

14 The chairman may appoint additional members to the  
15 committee as deemed appropriate to accomplish the goals of this  
16 program, including, but not limited to, representatives from  
17 the juvenile detention center, mental health, the Illinois  
18 Department of Children and Family Services, Department of Human  
19 Services and community representatives at large.

20 (c) The SHOCAP committee shall adopt, by a majority of the  
21 members:

22 (1) criteria that will identify those who qualify as a  
23 serious habitual juvenile offender; ~~and~~

24 (1.1) criteria to identify criminal trends in order to  
25 prevent outbreaks of violence by or against students;

26 (1.2) criteria to determine when sharing of juvenile

1 victim information would deter further acts of violence by  
2 or against juveniles; and

3 (2) a written interagency information sharing  
4 agreement to be signed by the chief executive officer of  
5 each of the agencies represented on the committee. The  
6 interagency information sharing agreement shall include a  
7 provision that requires that all records ~~pertaining to a~~  
8 ~~serious habitual offender (SHO)~~ shall be confidential  
9 subject to the provisions of this Act. Disclosure of  
10 information may be made to other staff from member agencies  
11 as authorized by the SHOCAP committee for the furtherance  
12 of case management and tracking of the SHO. Staff from the  
13 member agencies who receive this information shall be  
14 governed by the confidentiality provisions of this Act. The  
15 staff from the member agencies who will qualify to have  
16 access to the SHOCAP information must be limited to those  
17 individuals who provide direct services to the SHO or who  
18 provide supervision of the SHO.

19 (c-5) Using the criteria listed in subsection (c), the  
20 SHOCAP committee may identify, as needed:

21 (1) those who qualify as a serious habitual juvenile  
22 offenders;

23 (2) specific criminal trends in order to prevent  
24 outbreaks of violence by or against students; and

25 (3) juvenile victims when sharing juvenile victim  
26 information would deter further acts of violence by or

1           against juveniles.

2           (d) The Chief Juvenile Circuit Judge, or the Chief Circuit  
3 Judge, or his or her designee, may issue a comprehensive  
4 information sharing court order. The court order shall allow  
5 agencies who are represented on the SHOCAP committee and whose  
6 chief executive officer has signed the interagency information  
7 sharing agreement to provide and disclose information to the  
8 SHOCAP committee. The sharing of information will ensure the  
9 coordination and cooperation of all agencies represented in  
10 providing case management and enhancing the effectiveness of  
11 the SHOCAP efforts.

12           (e) Any person or agency who is participating in good faith  
13 in the sharing of SHOCAP information under this Act shall have  
14 immunity from any liability, civil, criminal, or otherwise,  
15 that might result by reason of the type of information  
16 exchanged. For the purpose of any proceedings, civil or  
17 criminal, the good faith of any person or agency permitted to  
18 share SHOCAP information under this Act shall be presumed.

19           (f) All reports concerning SHOCAP clients made available to  
20 members of the SHOCAP committee and all records generated from  
21 these reports shall be confidential and shall not be disclosed,  
22 except as specifically authorized by this Act or other  
23 applicable law. It is a Class A misdemeanor to permit, assist,  
24 or encourage the unauthorized release of any information  
25 contained in SHOCAP reports or records.

26           (Source: P.A. 90-590, eff. 1-1-99.)

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.